



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[IA-18-043; NRC-2019-0039]

In the Matter of Mr. Randy Bethea

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order prohibiting involvement in NRC-licensed activities to Mr. Randy Bethea. Mr. Bethea was employed as a radiographer at Mistras Group, Inc., (Mistras). Mr. Bethea engaged in deliberate misconduct in violation of the regulations that caused Mistras to be in violation of the regulations and license condition 9.A of its license.

DATES: The Order prohibiting involvement in NRC-licensed activities was issued on February 13, 2019.

ADDRESSES: Please refer to Docket ID **NRC-2019-0039** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2019-0039**. Address questions about dockets in Regulations.gov to Krupskaya Castellon; telephone: 301-287-9221; e-mail: Krupskaya.Castellon@nrc.gov. For technical questions, contact the individual

listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Leelavathi Sreenivas, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001; telephone: 301-287-9249, e-mail: Leelavathi.Sreenivas@nrc.gov.

SUPPLEMENTARY INFORMATION:

The text of the Order is attached.

Dated at Rockville, Maryland, this 13th day of February 2019.

For the Nuclear Regulatory Commission.

George A. Wilson Jr.,

Acting Director

Office of Enforcement.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Randy Bethea

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IA-18-043

**ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES**

I

At the time of the incident described below, Mr. Randy Bethea was employed as a radiographer at Mistras Group, Inc., (Mistras or licensee) located in Burr Ridge, Illinois. Mistras holds License No.12-16559-02, as amended on October 31, 2018, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 34 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes radiographic operations in accordance with the conditions specified in the license.

II

On September 8, 2017, a Sinclair Oil Refinery (Sinclair) quality assurance department employee was reviewing production radiography film packets provided by a Mistras employee and identified a radiograph of a human hand. Sinclair staff notified Mistras management personnel of the radiograph, who verified it was a radiograph of a hand. On the day the radiograph was submitted to Sinclair staff, only two Mistras employees were at the Sinclair facility. In a

written report, dated October 2, 2017, Mistras' corporate radiation safety officer notified the NRC of an industrial radiographer possibly exceeding the annual occupational dose limit in 10 CFR 20.1201(a)(1)(i). The written report also indicated that the radiographer admitted to intentionally radiographing his own hand. The NRC staff reviewed the written report and noted several items concerning NRC regulations for conducting radiographic operations that required further agency review.

The NRC Office of Investigations (OI), Region III Field Office, initiated an investigation to determine whether: (1) a radiographer willfully failed to use iridium-192 for industrial radiography as authorized by the NRC license issued to Mistras while at a refinery in Sinclair, Wyoming; (2) a radiographer willfully conducted radiographic operations without being accompanied by another qualified radiographer or an individual who has met the necessary training requirements; (3) Mistras willfully permitted an individual to act as a radiographer during radiographic operations without wearing on the body a personal dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program processor; (4) a radiographer willfully failed to conduct a survey of the radiographic device after each radiographic exposure to determine that the sealed source had been returned to its shielded position; and (5) Mistras willfully failed to control the annual occupational dose of an individual adult to 5 rem.

The Region III OI interviewed a number of individuals including: (1) Sinclair quality assurance staff; (2) Mistras staff and management; (3) Mr. Bethea, the Mistras radiographer assigned to the Sinclair site at the time of the hand radiography; and (4) the radiographer's assistant assigned to the Sinclair site at the time of the hand radiography. During the OI investigation, Mr. Bethea admitted to radiographing his own hand. The individual indicated that he took two radiographs of his hand. Mr. Bethea indicated that he took the radiographs of his hand by himself, without the knowledge of the radiographer's assistant. Mr. Bethea also indicated that he did not intend to provide the hand radiographs to anyone. However, one of the hand radiographs was in the packet of radiographs provided to Sinclair quality assurance staff on September 8, 2017.

During the OI investigation, Mr. Bethea indicated that he wore his personal dosimeter and performed a survey of the guide tube and exposure device after each radiographic exposure of his hand. The results of the OI investigation also indicated the licensee had originally calculated that Mr. Bethea had received an occupational dose of 5.311 rem for the year. However, after the licensee performed a recalculation of Mr. Bethea's exposure using the actual strength of the source used for the hand radiographs, the licensee determined that the radiographer's occupational dose was 4.897 rem for the year.

In a letter received by the NRC on January 3, 2019, Mr. Bethea stated the reason for the violation was too much stress from personal issues at home including a

sick family member. Mr. Bethea also stated there was no excuse for his actions and that corrective actions included not working away from home for extended periods of time and stating that any blatant disrespect to the NRC regulations will never happen again.

Based on a review of the OI report, training records, statements from the radiographer, and statements from Mistras personnel, it appears that on September 8, 2017, Mr. Bethea deliberately radiographed his own hand, a use not authorized by Condition 9.A of Mistras' NRC license and contrary to 10 CFR 30.34(c), which limits the use of radioactive material to the purposes authorized in the license.

III

Based on the above, the NRC has concluded that Mr. Randy Bethea engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) that caused Mistras to be in violation of 10 CFR 30.34(c) and License Condition 9.A of its license. The NRC must be able to rely on the licensee and its employees to comply with NRC requirements. Mr. Bethea's actions raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, the NRC lacks the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements,

and that the health and safety of the public will be protected if Mr. Bethea were permitted at this time to be involved in NRC-licensed activities. Therefore, the public's health, safety, and interest require that Mr. Bethea be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order. Additionally, Mr. Bethea is prohibited from acting as the lead radiographer, or from supervising or directing radiographic operations, for a period of three years from the date of this Order. Finally, Mr. Bethea is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the one-year prohibition period for having any involvement in NRC licensed activities.

IV

Accordingly, pursuant to sections 81, 161b, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 30.10, IT IS HEREBY ORDERED THAT:

1. Mr. Randy Bethea is prohibited for one year from the date of this Order from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State

licensees conducted in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. Mr. Randy Bethea is prohibited for three years from the date of this Order from acting as the lead radiographer, or from supervising or directing radiographic operations that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.
3. If Mr. Randy Bethea is currently engaged in NRC-licensed activities with any licensee, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the licensee, and provide a copy of this Order to the licensee.
4. For a period of one year after the one-year period of prohibition for conducting NRC-licensed activities has expired, Mr. Randy Bethea shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed

activities. In the notification, Mr. Bethea shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Bethea of good cause.

V

In accordance with 10 CFR 2.202, Mr. Bethea must submit a written answer to this Order under oath or affirmation within 30 days of its publication in the *Federal Register*. Mr. Bethea's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. Any person adversely affected by this Order may submit a written answer to this Order within 30 days of its publication in the *Federal Register*. In addition, Mr. Bethea and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter “petition”), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended by 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) calendar days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to: (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the

hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a

participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or Order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be

held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than Randy Bethea) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final thirty (30) calendar days from the date of issuance of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY
COMMISSION

George A. Wilson Jr., Acting
Director
Office of Enforcement

Dated this 13th day of February 2019
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